

38  
5/9/02  
JL

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DESMOND V. GAYLE,	:	
Plaintiff	:	
v.	:	CIVIL NO. 1:01-CV-1282
Defendants	:	(Judge Caldwell)
THOMAS HOGAN, <u>et al.</u> ,	:	

**FILED**  
**HARRISBURG, PA**

MAY 9 2002

O R D E R

MARY E. D'ANDREA CLERK  
Per J. Dunn  
Deputy Clerk

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Desmond Gayle, a prisoner formerly incarcerated at the York County Prison, filed this pro se civil rights complaint against Warden Hogan and Deputy Warden Bowen of the York County Prison. On March 29, 2002, the defendants filed a motion for summary judgment based on Gayle's failure to exhaust available administrative remedies. The defendants simultaneously filed a brief with supporting exhibits in support of their motion. To date, plaintiff has failed to file a brief in opposition to this motion, see M.D. Pa. Local Rule 7.6, or request an extension of time in which to do so.<sup>1</sup>

---

<sup>1</sup> Plaintiff Gayle is directed to review this Court's Local Rules; specifically, Rule 7.6, which recites an opposing party's duty to file a brief in opposition to a motion within fifteen days after service of the movant's brief less the motion be granted as unopposed.

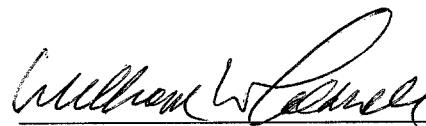
Generally, a dispositive motion may not be granted merely because it is unopposed. However, when a plaintiff fails to prosecute or comply with a court order, the court may dismiss the action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

We will dismiss this case for failure to prosecute and comply with a court order under the authority of Rule 41(b) if plaintiff fails to oppose the motion within twenty days of the date of this order.

Accordingly, this 9th day of May, 2002, it is ordered that:

1. Within twenty days of the date of this order, plaintiff shall file a brief in opposition to defendants' motion (doc. 22) for summary judgement or seek an extension of time to do.

2. If plaintiff fails to do so, we will dismiss plaintiff's complaint pursuant to Rule 41(b).



---

William W. Caldwell  
United States District Judge